

§ 235.2

legal guardian consent to travel. For purposes of this paragraph, an adult is considered to be a person age 19 or older. The following requirements will apply:

(A) The group or organization must provide to CBP upon crossing the border, on organizational letterhead:

(1) The name of the group, organization or team, and the name of the supervising adult;

(2) A list of the children on the trip;

(3) For each child, the primary address, primary phone number, date of birth, place of birth, and name of a parent or legal guardian.

(B) The adult leading the group, organization, or team must demonstrate parental or legal guardian consent by certifying in the writing submitted in paragraph (b)(8)(ii)(A) of this section that he or she has obtained for each child the consent of at least one parent or legal guardian.

(C) The inspection procedure described in this paragraph is limited to members of the group, organization, or team who are under age 19. Other members of the group, organization, or team must comply with other applicable document and/or inspection requirements found in this part.

* * * * *

(d) *Enhanced Driver's License Projects; alternative requirements.* Upon the designation by the Secretary of Homeland Security of an enhanced driver's license as an acceptable document to denote identity and citizenship for purposes of entering the United States, U.S. and Canadian citizens may be permitted to present these documents in lieu of a passport upon entering or seeking admission to the United States according to the terms of the agreements entered between the Secretary of Homeland Security and the entity. The Secretary of Homeland Security will announce, by publication of a notice in the FEDERAL REGISTER, documents designated under this paragraph. A list of the documents designated under this paragraph will also be made available to the public.

(e) *Native American Tribal Cards; alternative requirements.* Upon the designation by the Secretary of Homeland Security of a United States qualifying tribal entity document as an acceptable document to denote identity and citizenship for purposes of entering the United States, Native Americans may be permitted to present tribal cards upon entering or seeking admission to the United States according to the terms of the voluntary agreement entered between the Secretary of Homeland Security and the tribe. The Secretary of Homeland Security will announce, by publication of a notice in the FEDERAL REGISTER, documents designated under this paragraph. A list of the documents designated under this paragraph will also be made available to the public.

8 CFR Ch. I (1–1–09 Edition)

EFFECTIVE DATE NOTE: At 73 FR 77491, Dec. 19, 2008, § 235.1 was amended by revising paragraph (f)(1)(ii), effective Jan. 18, 2009. For the convenience of the user, the revised text is set forth as follows:

§ 235.1 Scope of examination.

* * * * *

(f) * * *

(1) * * *

(ii) The Secretary of Homeland Security or his designee may require any alien seeking admission to or parole into the United States, other than aliens exempted under paragraph (f)(1)(iv) of this section or Canadian citizens under section 101(a)(15)(B) of the Act who are not otherwise required to present a visa or be issued Form I-94 or Form I-95 for admission or parole into the United States, to provide fingerprints, photograph(s) or other specified biometric identifiers, documentation of his or her immigration status in the United States, and such other evidence as may be requested to determine the alien's identity and whether he or she has properly maintained his or her status while in the United States. The failure of an applicant for admission to comply with any requirement to provide biometric identifiers may result in a determination that the alien is inadmissible under section 212(a) of the Immigration and Nationality Act or any other law.

* * * * *

§ 235.2 Parole for deferred inspection.

(a) A district director may, in his or her discretion, defer the inspection of any vessel or aircraft, or of any alien, to another Service office or port-of-entry. Any alien coming to a United States port from a foreign port, from an outlying possession of the United States, from Guam, Puerto Rico, or the Virgin Islands of the United States, or from another port of the United States at which examination under this part was deferred, shall be regarded as an applicant for admission at that onward port.

(b) An examining immigration officer may defer further examination and refer the alien's case to the district director having jurisdiction over the place where the alien is seeking admission, or over the place of the alien's residence or destination in the United States, if the examining immigration officer has reason to believe that the

Department of Homeland Security

§ 235.3

alien can overcome a finding of inadmissibility by:

(1) Posting a bond under section 213 of the Act;

(2) Seeking and obtaining a waiver under section 211 or 212(d)(3) or (4) of the Act; or

(3) Presenting additional evidence of admissibility not available at the time and place of the initial examination.

(c) Such deferral shall be accomplished pursuant to the provisions of section 212(d)(5) of the Act for the period of time necessary to complete the deferred inspection.

(d) Refusal of a district director to authorize admission under section 213 of the Act, or to grant an application for the benefits of section 211 or section 212(d) (3) or (4) of the Act, shall be without prejudice to the renewal of such application or the authorizing of such admission by the immigration judge without additional fee.

(e) Whenever an alien on arrival is found or believed to be suffering from a disability that renders it impractical to proceed with the examination under the Act, the examination of such alien, members of his or her family concerning whose admissibility it is necessary to have such alien testify, and any accompanying aliens whose protection or guardianship will be required should such alien be found inadmissible shall be deferred for such time and under such conditions as the district director in whose district the port is located imposes.

[62 FR 10355, Mar. 6, 1997]

§ 235.3 Inadmissible aliens and expedited removal.

(a) *Detention prior to inspection.* All persons arriving at a port-of-entry in the United States by vessel or aircraft shall be detained aboard the vessel or at the airport of arrival by the owner, agent, master, commanding officer, person in charge, purser, or consignee of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service. Notice or order to detain shall not be required. The owner, agent, master, commanding officer, person in charge, purser, or consignee of such vessel or aircraft shall deliver every alien requiring examination to an immigration officer

for inspection or to a medical officer for examination. The Service will not be liable for any expenses related to such detention or presentation or for any expenses of a passenger who has not been presented for inspection and for whom a determination has not been made concerning admissibility by a Service officer.

(b) *Expedited removal*—(1) *Applicability.* The expedited removal provisions shall apply to the following classes of aliens who are determined to be inadmissible under section 212(a)(6)(C) or (7) of the Act:

(i) Arriving aliens, as defined in § 1.1(q) of this chapter, except for citizens of Cuba arriving at a United States port-of-entry by aircraft;

(ii) As specifically designated by the Commissioner, aliens who arrive in, attempt to enter, or have entered the United States without having been admitted or paroled following inspection by an immigration officer at a designated port-of-entry, and who have not established to the satisfaction of the immigration officer that they have been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility. The Commissioner shall have the sole discretion to apply the provisions of section 235(b)(1) of the Act, at any time, to any class of aliens described in this section. The Commissioner's designation shall become effective upon publication of a notice in the FEDERAL REGISTER. However, if the Commissioner determines, in the exercise of discretion, that the delay caused by publication would adversely affect the interests of the United States or the effective enforcement of the immigration laws, the Commissioner's designation shall become effective immediately upon issuance, and shall be published in the FEDERAL REGISTER as soon as practicable thereafter. When these provisions are in effect for aliens who enter without inspection, the burden of proof rests with the alien to affirmatively show that he or she has the required continuous physical presence in the United States. Any absence from the United States shall serve to break the period of continuous physical presence. An alien who was not inspected